

MISC.CIVIL APPLICATION NO. 2153 OF 1994.

Date of decision: 23.11.1995

For approval and signature

The Honourable Mr. Justice S.M. Soni

and

The Honourable Mr. Justice R.R. Jain

Mr. Girish Patel, advocate for applicant.

Mr. H.V. Pujara, advocate for opponents.

1. Whether Reporters of Local Papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

Coram:S.M.Soni & R.R.Jain, JJ.

November 23, 1995.

Oral judgment (Per Soni, J.)

Applicant has filed this application for action against opponents under the Contempt of Courts Act alleging that opponents have committed breach of order passed by this Court (Coram: M.S.Parikh, J.) on 26.2.1993 as well as order passed by this Court (Coram: N.J.Pandya, J.) on 8.8.1994 in Civil Application No.1644 of 1994. Both these orders are, in substance, to the effect that

opponents, their servants and agents were restrained from terminating service of the petitioner except in accordance with law.

Allegation made in the application to constitute contempt is that when the applicant proceeded on leave for some days, he was not allowed to resume duty after the same. According to him, it amounts to breach of the orders referred to above. In our opinion, opponents are prevented from terminating the service of the applicant except in accordance with law. Preventing the applicant from resuming duty even if taken as true, then also it does not amount to terminating services of the applicant. Thus, on the facts, as stated by the applicant, case does not fall within the purview of clause (c) of Section 2 of the Contempt of Courts Act. Hence, the application is not maintainable.

In the result, petition is dismissed. Rule discharged. No order as to costs.